



**MILPITAS CITY COUNCIL MEETING AGENDA
FEBRUARY 20, 2007**

**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)
455 E. CALAVERAS BOULEVARD**

**SUPPLEMENTAL AGENDA FOR REGULAR MEETING AND SPECIAL MEETING NOTICE
PURSUANT TO GOVERNMENT CODE SECTION 54956**

**TELECONFERENCE LOCATION OF VICE MAYOR LIVENGOOD
MAIN LOBBY
9400 N. NAME UNO
GILROY, CA 95020
CONFERENCE CALL IN NUMBER: (408) 655-0392**

SUMMARY OF CONTENTS

- I. CALL TO ORDER/ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**

PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Pursuant to California Government Code §54957
Position: City Attorney
- III. CLOSED SESSION ANNOUNCEMENTS:** Report on action taken in Closed Session, if required pursuant to Govt. Code Section 54957.1, including the vote on abstention of each member present
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION** (Councilmember Giordano)
- VI. APPROVAL OF MINUTES** (February 6, 2007)
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATIONS**

Proclamations
John McDermott, Creator of the Milpitas Minute Man Logo
Rotary Club 102nd Birthday and World Understanding & Peace Day

Certificates of Commendation
Eagle Scout: Glenn Mark Robinson, Jr.
Achievement of Excellence in Procurement Award for City of Milpitas Finance Department
- IX. PUBLIC FORUM**

Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

- X. ANNOUNCEMENTS**
- XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**
- XII. APPROVAL OF AGENDA**
- XIII. CONSENT CALENDAR** (Items with Asterisks*)
- XIV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

City Council

- 1. Adopt Resolution Regarding Health at Request of County of Santa Clara (Contact: Councilmember Giordano, 586-3032)**

Parks, Recreation and Cultural Resources Commission

- 2. Review Facility Use Manual Application for Sport User Groups (Staff Contact: Bonnie Greiner, 586-3227)**

XV. NEW BUSINESS

- 3. Accept the Cost Allocation Report (Staff Contact: Emma Karlen, 586-3145)**
- * 4. Authorize the Purchasing Agent to Dispose of Three Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)**

XVI. ORDINANCE

- * 5. Waive Second Reading and Adopt Ordinance No. 48.18 Amending an Existing Subsection to Chapter 200 of Title V of the Milpitas Municipal Code Entitled “Weekly Disposal” (Staff Contact: Marilyn Nickel, 586-3347)**

XVII. RESOLUTIONS

- 6. Adopt Resolution Approving Memorandum of Understanding with the International Association of Firefighters Local 1699 (IAFF) (Staff Contact: Carmen Valdez, 586-3086)**
- * 7. Adopt Resolution Granting Final Acceptance: Athletic Court Rehabilitation, Project No. 5069 - Phase II (2005) (Staff Contact: Andrew Brozyna, 586-3315)**

XVIII. BIDS AND CONTRACTS

- * 8. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Street Resurfacing 2007, Project No. 4236 (Staff Contact: Andrew Brozyna, 586-3315)**
- * 9. Authorize City Manager to Execute Agreement for Multi-Family Address Survey with A&A Distribution (Staff Contact: Leslie Stobbe, 586-3352)**
- * 10. Approve License Agreement between the City of Milpitas and Bay Area Air Quality Management District for the Use of City Real Property (Staff Contact: Mehdi Khaila, 586-3328)**
- * 11. Award the Bid for Fuel to Valley Oil (Staff Contact: Chris Schroeder, 586-3161)**

XIX. ADJOURNMENT

**SPECIAL CITY COUNCIL MEETING – BUDGET STUDY SESSION
TUESDAY, FEBRUARY 27, 2007 AT 6:00 P.M.**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING
TUESDAY, MARCH 6, 2007, AT 7:00 P.M.**

KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public.
Commissions, boards, councils and other agencies of the City exist to conduct the people's business.
This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT SUBCOMMITTEE at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035
E-mail: rpioroda@ci.milpitas.ca.gov / Fax: 408-586-3030 / Phone: 408-586-3040

A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website www.ci.milpitas.ca.gov, select Open Government Ordinance under News Features.

BECOME A CITY COMMISSIONER!

Currently, there are openings on the following Commissions:

Community Advisory Commission
Economic Development Commission (rep. for Hotel Industry)
Mobile Home Park Rental Review Board
Planning Commission
Recycling and Source Reduction Advisory Commission (2 alternates)

Applications are available online at www.ci.milpitas.ca.gov or outside the City Council Chambers.
Contact the City Clerk's Office (586-3003) for more information.

AGENDA REPORTS

XIV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES

City Council

- 1. Adopt Resolution Regarding Health at Request of County of Santa Clara (Contact: Councilmember Giordano, 586-3032)**

Background: Councilmember Giordano received a request from County Supervisor Liz Kniss to ask the City Council of the City of Milpitas to adopt the proposed resolution, regarding health in our City. A draft resolution is included in the Council agenda packet.

Recommendation: Adopt Resolution calling for the City of Milpitas to promote health awareness at the local government level.

Parks, Recreation and Cultural Resources Commission

- 2. Review Facility Use Manual Application for Sport User Groups (Staff Contact: Bonnie Greiner, 586-3227)**

Background:

At the original request of Councilmember Giordano, this item was discussed at the August 7, October 2, 2006, and the February 5, 2007 Parks, Recreation and Cultural Resources Commission meetings. The request was to review the existing Facility Use Manual, which was approved by the City Council in 2004, to determine the most appropriate ways to allocate city fields. Field use is always a challenge due to the limited fields and the continuing growing number of users' groups requesting and competing for the same fields.

Below is the current Facility Use Manual Policy outlining the priorities adopted in 2004 as related to the Youth Sports User Groups requesting fields within the City of Milpitas.

PRIORITIES

Priorities are designed to determine fee and reservation status. For reservation status, see rule 2.4 and 2.5.

1. To provide for public activities in the best interest of the Community, City facilities will be reserved in accordance with the following group priorities:

Priority I. City administered programs.

Priority II. Programs or activities for Senior Citizens and approved co-sponsored groups which are principally composed of local residents (51% or more), private or public schools located in Milpitas, the Milpitas Chamber of Commerce and governmental agencies.

Priority III. Non-profit groups that are organized for recreational, social, cultural, religious or civic purposes and whose membership is principally composed of local residents (51% or more) or whose charter is based in Milpitas.

Priority IV. Any other group, business or individual resident of the City of Milpitas.

Priority V. Any non-resident group, business or individual.

At the February 5, 2007, PRCRC meeting, the Commission motioned to make the following changes to the current Facility Use Manual:

Priority I. City administered programs. (70% or more residents)

Priority II. Programs or activities for Senior Citizens and approved co-sponsored groups which are principally composed of local residents (70% or more), private or public schools located in Milpitas, the Milpitas Chamber of Commerce and governmental agencies.

It also voted to have each group apply for an updated Co-Sponsorship form annually (sample in agenda packet).

Recommendation: To continue with the existing policy, and also include the PRCRC's recommendations to increase the resident requirement from 51% to 70% and adding the annual application process for Co-Sponsorship.

XV. NEW BUSINESS

3. Accept the Cost Allocation Report (Staff Contact: Emma Karlen, 586-3145)

Background:

In 1995, the City conducted a Cost Allocation Study which was accepted by the City Council. Simultaneously, the Council adopted fee Ordinance No. 164.2 to establish the percentage of "costs reasonably borne" by the end users of various City programs. In the current fiscal year, the Finance Department initiated and prepared an updated Cost Allocation Study. The study was conducted in house with assistance from all the departments.

The primary objective of the Cost Allocation Study is to calculate the fully loaded cost of each major City program. The fully loaded cost includes not only the direct costs of servicing a program but also administrative and overhead costs which are assigned to each program indirectly using various allocation formulas. The Cost Allocation Study will meet the requirements of Proposition 218 by documenting and substantiating the full costs of City services. Proposition 218 greatly impacts the ability of local governments to impose taxes and other property-related assessments and limits certain revenues that a government can collect to the costs of those services only.

Other objectives of this study include identification of cost recovery or cost containment opportunities. By matching the full cost of a program with the program revenue, the Cost Allocation Study brings awareness to the Council as to which City programs are being subsidized by tax revenues and to what degree. Given that tax revenues are limited and demand for services are high, the Cost Allocation Study will facilitate long-term strategic planning and prioritization of programs.

Staff will present an overview, methodologies and results of this Cost Allocation Study at the City Council's meeting.

Recommendation: Move to accept the Cost Allocation Report from City Finance staff.

*** 4. Authorize the Purchasing Agent to Dispose of Three Surplus Vehicles at Auction (Staff Contact: Chris Schroeder, 586-3161)**

Background:

The City has three (3) vehicles, a 1985 Ford F350 pick up truck, a 2000 Kawasaki Police motorcycle, and a Pavement marker used by Street Maintenance. All three vehicles have reached the end of their useful lives and have been removed from service as the cost to maintain the vehicles exceeds their values. The value of the vehicles at auction is estimated to range from \$1,000 to \$2,500 each. Staff requests authorization to dispose of the vehicles at auction pursuant to section I-2-8.03 of the Municipal Code "Disposal of more than \$1,000."

Recommendation: Approve the request to auction three surplus City-owner vehicles (truck, motorcycle and pavement marker).

XVI. ORDINANCE

- * **5. Waive Second Reading and Adopt Ordinance No. 48.18 Amending an Existing Subsection to Chapter 200 of Title V of the Milpitas Municipal Code Entitled “Weekly Disposal” (Staff Contact: Marilyn Nickel, 586-3347)**

Background: Ordinance No. 48.18 was introduced at the February 6, 2007 City Council meeting. The ordinance requires businesses to have their compactors collected on a bi-weekly basis. An exemption period previously identified in the ordinance has since expired and the existing text was revised for clarity.

Recommendation: Waive the second reading and adopt Ordinance No. 48.18, amending compactor disposal collection frequency.

XVII. RESOLUTIONS

- 6. Adopt Resolution Approving Memorandum of Understanding with the International Association of Firefighters Local 1699 (IAFF) (Staff Contact: Carmen Valdez, 586-3086)**

Background: The most recent Memorandum of Understanding with the International Association of Firefighters Local 1699 (IAFF) expired on June 30, 2005. City representatives and representatives from IAFF met and conferred in good faith to negotiate a new contract. Agreement has been reached with a new successor Memorandum of Understanding with the effective dates of July 1, 2005 to December 31, 2007, a copy of which is included in the Council’s agenda packet.

Recommendation: Adopt a resolution approving the Memorandum of Understanding with the International Association of Firefighters Local 1699 covering the period of July 1, 2005 through December 31, 2007.

- * **7. Adopt Resolution Granting Final Acceptance: Athletic Court Rehabilitation, Project No. 5069 - Phase II (2005) (Staff Contact: Andrew Brozyna, 586-3315)**

Background:

This project, which was initially accepted on December 6, 2005, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements that include rehabilitation of tennis courts at Hall Park, Dixon Landing Park, Gill Park, Yellowstone Park, and Pinewood Park; rehabilitation of basketball courts at Dixon Landing Park, Gill Park, and Pinewood Park; and rehabilitation of handball courts at Gill Park. Therefore, the Council may grant final acceptance and the contractor’s bond may be released.

Recommendation: Adopt a resolution granting final acceptance of Project 5069 and release of the contractor’s bond.

XVIII. BIDS AND CONTRACTS

- * **8. Approve Plans and Specifications and Authorize the Advertisement for Bid Proposals: Street Resurfacing 2007, Project No. 4236 (Staff Contact: Andrew Brozyna, 586-3315)**

Background: Plans and specifications for the subject project have been completed in accordance with the approved five-year Capital Improvement Program (CIP). The project consists of roadway reconstruction on Selwyn Drive, Solar Court, Beacon Drive, Bixby Drive between Edsel Drive and Wylie Drive, a 200 foot section of Carnegie Drive north of Yosemite Drive, Yosemite

Drive between Park Victoria Drive and Bryce Court, Stulman Drive, La Baree Drive, Patricia Court, Falcato Drive between Edsel Drive and Wylie Drive, and Tahoe Drive; roadway resurfacing on Santa Rita Drive between Via Baja and northern end, Starlite Drive between Fallen Leaf Drive and southern end, Wylie Drive between Temple Drive and Bixby Drive, Rocky Mountain Drive, and Butano Drive; and repair of base failures on Yosemite Drive between Bryce Court and Temple Drive, Fallen Leaf Drive between Starlite Drive and Cedar Way, Falcato Drive between Lacey Drive and Wylie Drive, and Wylie Drive between Bixby Drive and Falcato Drive.

The Engineer's Estimate for the work is approximately \$900,000. The project schedule anticipates award for construction in April 2007. A budget appropriation advancing next year's Street Resurfacing budget will be proposed, once bids are received and a contract award recommendation is presented to Council. A copy of the project plan title sheet is included in the Council's agenda packets. Complete plans and specifications are available for review in the office of the City Engineer.

Recommendations:

1. Approve plans and specifications for Project No. 4236.
2. Authorize advertising project for bid proposals.

*** 9. Authorize City Manager to Execute Agreement for Multi-Family Address Survey with A&A Distribution (Staff Contact: Leslie Stobbe, 586-3352)**

Background: Since the mid-1990s, information regarding the residential and recycling programs has been sent annually to all households. It is important to make an extra effort to target multi-family households because the Multi-family Recycling Program is consistently below-par in reaching the program's performance measure of 18.33 lbs. per dwelling unit per month. The United States Postal Service does not release mailing information and both City and private mailing list databases do not distinguish between single-family and multi-family dwellings.

Staff proposes to perform a field survey to create a separate multi-family mailing list in order to reach these customers with pertinent information and improve recycling volume. A sole-source vendor that conducts door-to-door distributions throughout Santa Clara County is available to conduct the field survey of approximately 6,000 multi-family units in Milpitas. Obtaining this information requires a field survey to confirm the number of units per multi-family development and the individual unit-numbering sequences for each complex. The cost of the project is \$26,000, which is approximately \$4.33 per complete unit address. Staff queried other local jurisdictions regarding the cost of street and field surveys and found a cost range of \$5.00 to \$7.00 per unit for similar surveys.

The proposed outreach support is in accordance with the FY07 solid waste performance goals and there is sufficient funding in the current operating budget to complete this work. In addition, staff will retain the database for future outreach efforts.

Recommendation: Authorize the City Manager to execute an agreement with A&A Distribution, Inc., for the amount not-to-exceed \$26,000.

*** 10. Approve License Agreement between the City of Milpitas and Bay Area Air Quality Management District for the Use of City Real Property (Staff Contact: Mehdi Khaila, 586-3328)**

Background:

Bay Area Air Quality Management District (BAAQMD) is requesting to install two air quality monitoring devices and other related equipment on City owned property. The BAAQMD has agreed to pay to the City \$1,250.00 annually per each site for the use of premises and to offset the cost of electricity used by the equipment.

Recommendation: Authorize the City Manager to execute the License Agreement between the City of Milpitas and Bay Area Quality Management District for the use of City real property, subject to the approval by the City Attorney as to form.

* 11. **Award the Bid for Fuel to Valley Oil (Staff Contact: Chris Schroeder, 586-3161)**

Background: On January 4, 2007, staff went out for bids for a multi-year fuel purchase and delivery contract. The bid was advertised in the Milpitas Post, mailed to eleven (11) vendors on the City's vendor data base, and posted on the City's website. Three (3) vendors responded; based on the City's current consumption of fuel, their bids are summarized below.

Golden Gate Petroleum	\$493,060.00 per year
Falcon Fuel	\$441,831.00 per year
Valley Oil	\$429,700.00 per year

The initial term of the contract covers the period from January through June of 2007, with three one year options for renewal. Based on annualized fuel usage estimates and the current outstanding balance, \$230,000 is needed to allow the City to manage to the end of the fiscal year.

Sufficient funds are available in the Public Works operating budget for this purchase.

Recommendation: Award the bid and authorize the City Manager to execute a multi-year contract with Valley Oil to provide fuel, for the not to exceed amount of \$230,000.00, for the initial term of the contract, subject to approval as to form by the City Attorney.

XIX. ADJOURNMENT

**SPECIAL CITY COUNCIL MEETING – BUDGET STUDY SESSION
TUESDAY, FEBRUARY 27, 2007 AT 6:00 P.M.**

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TUESDAY, MARCH 6, 2007, AT 7:00 P.M.**